IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No. 128 of 2007
In
COMPANY APPLICATION No. 7 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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M/S. SHANTIKRUPA ESTATE PVT. LTD. - Applicant(s)
Versus
O.L OF AMRUTA MILLS LTD. - Respondent(s)

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Appearance :
MR S M SOJATWALA for Applicant(s) : 1,
OFFICIAL LIQUIDATOR for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 16/03/2007

ORAL JUDGMENT

Present Judges summons has been taken out by the applicant M/S. SHANTIKRUPA ESTATE PVT. LTD. for an appropriate order directing the Official Liquidator of M/s AMRUTA MILLS LTD. (in lqn) to refund the amount of Rs.15 lacs deposited by the applicant with the Official Liquidator by way of demand draft bearing No.4709 dated 18-7-2006 of the Kalupur Commercial Cooperative Bank Ltd. which was deposited as EMD pursuant to the order passed by this Court dated 3-7-2006 in Company Application No.7 of 2006 while submitting bid for purchasing the land of the company in liquidation.

2. Shri Sojatwala, learned advocate appearing on behalf of the applicant company has submitted that pursuant to the offers invited by the Official Liquidator/Sale Committee, the applicant has submitted its offer along with EMD of Rs.15 lacs. It is submitted that against the order passed by the learned single Judge of this Court permitting/directing to sell the properties of the company in liquidation, OJ Appeal No.60 of 2003 has been filed, in which the Division Bench has granted stay against the sale of the properties of the company in liquidation. Therefore, it is prayed to permit the applicant to withdraw the said EMD as the applicant would be loosing interest on the said EMD of Rs.15 lacs. Shri Sojatwala has further submitted that the applicant may be permitted to withdraw the EMD unconditionally.

3. Accordingly the applicant is permitted to withdraw the EMD of Rs.15 lacs unconditionally at the risks and costs of the applicant and subject to the consequences that may be followed on withdrawal of the

EMD of Rs.15 lacs. The Official Liquidator of AMRUTA MILLS LTD. is directed to refund the said EMD of Rs.15 lacs to the applicant within a period of three weeks from today.

4. With this, the present application is disposed of. No costs.

(M.R. SHAH, J.)

shekhar